

**JEFFERSON PARISH, LOUISIANA  
PERSONNEL**

**EXCERPTS FROM THE JEFFERSON PARISH PERSONNEL RULES REGARDING  
EMPLOYEE APPEALS**

**UPDATED THROUGH MARCH 9, 2022**

**SPECIAL NOTICE, PLEASE READ CAREFULLY!**

***ON THE FOLLOWING PAGES, SELECTED EXCERPTS FROM THE PERSONNEL RULES HAVE BEEN INCLUDED FOR YOUR INFORMATION. THESE EXCERPTS ARE NOT INTENDED TO BE ALL INCLUSIVE OF THE INFORMATION YOU NEED TO FILE YOUR APPEAL, NOR ARE THEY INTENDED TO BE A SUBSTITUTE FOR THE COMPLETE PERSONNEL RULES. THEY ARE INTENDED TO GIVE YOU BASIC INFORMATION ABOUT YOUR RIGHT OF APPEAL AND YOUR OBLIGATIONS WHEN FILING AN APPEAL.***

***A COMPLETE COPY OF THE PERSONNEL RULES IS AVAILABLE FOR YOUR REVIEW ON THE PERSONNEL DEPARTMENT WEBSITE, AS WELL AS IN THE PERSONNEL DEPARTMENT, UPON REQUEST.***

***IF YOU WOULD LIKE TO ARRANGE AN APPOINTMENT TO REVIEW THE RULES, IF YOU HAVE ANY QUESTIONS REGARDING THE INFORMATION PROVIDED HERE, OR IF YOU HAVE ANY QUESTIONS REGARDING THE APPEAL PROCESS YOU SHOULD ASK TO SPEAK TO THE ASSISTANT DIRECTOR-PERSONNEL OR A REPRESENTATIVE FROM THE CLASSIFICATION AND PAY DIVISION. TO INQUIRE BY PHONE, CALL 504-364-2730.***

## **RULE II**

### **ORGANIZATION, RULES AND PROCEDURES OF PERSONNEL BOARD**

#### **Section 1. ORGANIZATION OF PERSONNEL BOARD**

- 1.1 Election of Chairman: At the regular meeting in May of each year, the Board shall elect one of its members Chairman for a term of one (1) year or until a successor is duly elected. Should the office of Chairman prematurely be vacated because of death, resignation, or otherwise, the Board shall elect a successor at the meeting next following the occurrence of the vacancy.
- 1.2 Rules of Order: The Board shall not be bound by any rules of order, evidence or procedure in its meetings, hearings, or investigations, except such as it may itself establish.

#### **Section 2. RULES**

- 2.1 Adoption or Amendment: These Rules shall be adopted or amended only after a public hearing by the Board and subsequent submission of Board recommendations to and approval by the Parish Council.
- 2.2 Effective Date of Amendments: Unless otherwise specifically provided, any amendment to the Rules shall become effective on the first day of the month following the date of enactment of the ordinance approving the amendment.

#### **Section 3. MEETINGS**

- 3.1 The Board shall hold one (1) regular meeting in each month, except when a meeting is considered unnecessary.
- 3.2 Special meetings may be held at times and places specified by call of any member of the Board.
- 3.3 The Director of Personnel shall notify each member of the Board of the time and place of all regular meetings.
- 3.4 It shall be the policy of the Board to hold open, public meetings; except that the Board may exercise the right to enter into executive session whenever it deems necessary.
- 3.5 Two (2) members of the Board shall constitute a quorum for the transaction of business.
- 3.6 The Director of Personnel shall act as secretary to the Board and shall keep adequate minutes and other records of the official actions and business of the Board. The Director shall maintain the records in his office.
- 3.7 Unless the Board specifies otherwise, its meetings shall be held at its offices, in space provided by the proper Parish officials.

#### **Section 4. APPEALS**

- 4.1 Regular employees in the classified service shall have the right to appeal to the Board from suspension, fine, dismissal, layoff, demotion, reduction in pay, or furlough and designation as cyclic worker as provided under Rule XIII, Section 4.2 (a) and (c), to test the reasonableness of

such action. The burden of proof on appeal, as to the facts, shall be on the appointing authority.

- 4.2 Any working test, or probation period, employee in the classified service who is suspended, fined, dismissed, laid off, or has suffered a reduction in pay or a demotion, shall have a right of appeal to the Board; provided, that he specifically alleges that the action appealed from resulted from discrimination due to race, color, national origin, sex, religion, age, disability, politics, or other specified cause unrelated to merit-employment considerations.

Persons who have applied for or shall have been examined for the classified service and who allege that they have been discriminated against due to race, color, national origin, sex, religion, age, disability, politics, or other specified cause unrelated to merit-employment considerations in review of their applications, admission to examinations, scoring of examinations, establishment of eligible lists, or certification, shall have the right to appeal to the Board.

- 4.3 Where discrimination or retaliation, including a violation of the Charter or a Personnel Rule, is alleged to be a basis for appeal, specific facts supporting the conclusion of discrimination or retaliation must be alleged in detail. The specific facts required will vary depending on the nature of the appeal; however, the facts must be alleged in sufficient detail to enable the agency to prepare a defense. A conclusion of discrimination or retaliation is not sufficient. The types of facts which must be included are:

- (a) the date, time and place the discriminatory or retaliatory action took place;
- (b) the name of the person or agency alleged to have taken the discriminatory or retaliatory action;
- (c) a description of how appellant's action, conduct or performance was the same as that of other persons who were treated differently;
- (d) the names of other persons treated differently and the dates the different treatment occurred;
- (e) a description of events, including the dates and circumstances thereof, which led appellant to believe that the adverse decision was based on his religious or political beliefs, sex, race, or any other non-merit factor.

Persons alleging discrimination or retaliation as a basis for appeal shall bear the burden of proof of their allegations.

- 4.4 Persons appealing to the Board shall do so in writing and shall specify the reasons for requesting a hearing.

- 4.5 Appeals to the Board must be filed with and received by the Personnel Department during established Department working hours and within thirty (30) calendar days of the effective date of the action complained against. Saturdays, Sundays, holidays, and other non-working days shall not serve to extend this thirty-day limitation. If the last day falls on a weekend or legal holiday, then the delay shall end on the next working business day.

Following the expiration of the thirty (30) calendar day period which is provided above for the filing and receipt of appeals, no appeal shall be amended or supplemented in such a way as to change the fundamental issues involved in the original appeal.

- 4.6 Within forty-five (45) calendar days after receipt of an appeal, the Board shall initiate a hearing. The Board shall have the right to continue the hearing from time to time for good cause and reason.

Except as otherwise specifically provided in these Rules, the burden of proof on appeal, as to the facts, shall be on the appointing authority or other official against whose action the appeal is taken.

- 4.7 The Board or Referee shall decide appeals promptly, but in any event within ninety (90) calendar days after completion of a hearing.
- 4.8 Appellants shall have the right to be represented by counsel. Such counsel must be duly licensed to practice law in the State of Louisiana.
- 4.9 In its decisions resulting from appeals hearings taken under this section, the Board or Referee may affirm, amend, or overturn the action from which appellant appealed; including an award of back pay and other emoluments. However, in cases in which back pay is awarded, the appellant shall be required to file with the Board or Referee a notarized statement of all monies earned by appellant during the period of absence from the Parish payroll, and a hearing shall take place to determine which earnings shall be deducted in computing the amount of the back-pay award.

#### Section 5. OATHS, TESTIMONY, PRODUCTION OF RECORDS, DEPOSITIONS, AND PAYMENT OF COSTS

- 5.1 The Board, each member of the Board, the Referee, and the Director may administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by the Board pursuant to the Law and Rules. Applications for issuance of subpoenas must be received in the Personnel Department at least seven (7) work days prior to the date established for the hearing.
- 5.2 If the subpoena is not complied with by the date of appearance or for the production of documents, the Personnel Board may apply to the 24<sup>th</sup> Judicial District Court for an order compelling compliance with the subpoena. A person failing to comply may be adjudged in contempt of court. The Personnel Board may seek recovery of costs and attorney's fees associated with order to compel.
- 5.3 Any appellant or party to an appeal who desires to take the testimony of a witness or witnesses residing outside of the State of Louisiana or within the State but outside of Jefferson Parish, shall give due notice in writing to the opposing party or his counsel and shall furnish a copy of said notice to the Board. The testimony of such witness or witnesses may be taken in a manner and form as nearly consonant as possible with the provisions as provided in the Louisiana Revised Statutes or Louisiana Code of Civil Procedure.
- 5.4 Payment of costs shall be made as follows:
- (1) The Personnel Director or his designee, immediately after the order of appeal from a decision of the Personnel Board has been granted, shall estimate the cost of the preparation of the record on appeal, including the fee of the court reporter for preparing the transcript and the filing fee required by the appellate court. The Personnel Director or his designee shall send notices of the estimated costs by certified mail to the appellant and by first class mail to the appellee.

- (2) Within twenty (20) calendar days of the mailing of notice, the appellant shall pay the amount of the estimated costs to the Personnel Department. Saturdays, Sundays, holidays, and other non-working days shall not serve to extend this twenty-day limitation. If the last day falls on a weekend or legal holiday, then the delay shall end on the next working business day. The Personnel Board may grant one extension of the period for paying the amount of the estimated costs for not more than an additional twenty (20) calendar days upon written motion showing good cause for the extension.
- (3) The appellant may question the excessiveness of the estimated costs by filing a written application for reduction in the Personnel Department within the first twenty-day time limit, and the Personnel Board may order reduction of the estimate upon proper showing. If an application for reduction has been timely filed, the appellant shall have twenty (20) calendar days to pay the costs beginning from the date of the action by the Personnel Board on application for reduction. Saturdays, Sundays, holidays, and other non-working days shall not serve to extend this twenty-day limitation. If the last day falls on a weekend or legal holiday, then the delay shall end on the next working business day.
- (4) After the preparation of the record on appeal has been completed, the Personnel Director shall, as the situation may require, either refund to the appellant the difference between the estimated costs and the actual costs if the estimated costs exceed the actual costs, or send a notice by certified mail to the appellant of the amount of additional costs due, if the actual costs exceed the estimated costs. If the payment of additional costs is required, the appellant shall pay the amount of additional costs within twenty (20) calendar days of the mailing of the notice. Saturdays, Sundays, holidays, and other non-working days shall not serve to extend this twenty-day limitation. If the last day falls on a weekend or legal holiday, then the delay shall end on the next working business day.
- (5) If the appellant fails to pay the estimated costs, or the difference between the estimated costs and the actual costs, within the time specified, the Personnel Board, on its own motion, or upon motion by the Personnel Director or by any party, and after a hearing, shall:
  - (a) Enter a formal order of dismissal on the grounds of abandonment; or
  - (b) Grant a ten day period within which costs must be paid in full, in default of which the appeal is dismissed as abandoned.
- (6) If the appellant pays the costs required by this Rule, the appeal may not be dismissed because of the passage of the return day without an extension being obtained or because of an untimely lodging of the record on appeal.
- (7) For purposes of this section, appellant(s) shall mean a party seeking appellate relief, and appellee(s) shall mean a party not seeking appellate relief.

## Section 6. DRUG AND ALCOHOL TESTING APPEALS

- 6.1 This Section includes special provisions which are applicable only to appeals arising from the application of Rule VI, Section 10: Drug and Alcohol Testing Program.
  - (a) At the hearing on any such appeal, completed chain of custody form, test results, MRO report and/or breath alcohol test result from which formed the basis of the disciplinary action shall be received into evidence as a business record exception to the hearsay rule

and these documents shall constitute prima facie evidence of the validity of the test.

- (b) A regular classified employee who contests the validity of the results of an alcohol or drug test shall allege with specificity, any and all aspects of the alcohol or drug test which the appellant alleges were invalid, including collection, testing, MRO report, and/or breath alcohol test.
- (c) Any employee, confirmed positive, may submit a written request for the documents which formed the basis of the disciplinary action, and shall have the right of access to such documents within seven working days.
- (d) When the Department of Human Resource Management is presented with a request for said documents, the Department of Human Resource Management shall provide to the appellant all documents it intends to introduce into evidence from the collector, testing laboratory, Medical Review Officer, and/or Breath Alcohol Technician within ten (10) calendar days of its receipt of a request for said documents. If the Department of Human Resource Management fails to provide the documents from the alcohol or drug test within ten (10) calendar days after receiving a timely request for said documents, the presumption of the validity of said documents is negated and the Appointing Authority shall be required to introduce admissible evidence to establish the validity of the testing procedure.
- (e) An appellant shall be permitted to amend his or her petition of appeal in order to comply with the provisions of Section 6.1(b) provided that such amendment shall be filed in writing with and received by the Personnel Department during established department working hours, within ten (10) calendar days of the receipt of the requested documents from the Department of Human Resource Management.

## Section 7. WHISTLEBLOWER PROTECTION

### 7.1 REPRISAL PROHIBITED

An appointing authority shall not engage in reprisal against an employee for disclosing a violation or suspected violation of any of the following:

- (A) A state or federal law.
- (B) A lawful regulation or rule promulgated by Jefferson Parish or other political subdivision of the state of Louisiana.
- (C) A civil service rule or regulation adopted through the Jefferson Parish Personnel Board's rule making process as provided in the Jefferson Parish Charter, Section 4.03.

### 7.2 APPLICATION

An employee who discloses, or who is known by the appointing authority to have indicated an intent to disclose, violations or suspected violations are protected by this rule, unless the employee knew the disclosure was false. This protection extends to an employee who participates in, or who was known by the appointing authority to have indicated an intent to participate in, a court proceeding or an investigation, hearing, or inquiry conducted by a public body.

### 7.3 FORMS OF REPRISAL

Reprisal includes actions such as discharge or other disciplinary actions, threats of discipline, denial of permanent status to probationary employees, negative performance evaluations or comments therein, or arbitrary and capricious changes in the conditions of employment.

### 7.4 RIGHT OF APPEAL

Any employee who alleges that he has suffered reprisals prohibited under this section including but not limited discharge or other disciplinary actions, threats of discipline, denial of permanent status to probationary employees, negative performance evaluations or comments therein, or arbitrary and capricious changes in the conditions of employment shall have the right to appeal to this Board.

### 7.5 BURDEN OF PROOF

An appellant who files an appeal based on an allegation of reprisals as prohibited under this section shall bear the burden of proof either through first or indirect evidence.

### 7.6 KNOWINGLY MAKING FALSE DISCLOSURES

Determination by the Board that an employee has knowingly made or intended to make a false disclosure shall be grounds for dismissal of appeal and may be grounds for further disciplinary action by the appointing authority, the Board, or Referee.

## Section 8. EXCLUSIVITY AND REVIEW

8.1 The Jefferson Parish Personnel Board shall have the exclusive power and authority to hear and decide all removal and disciplinary cases and other actions appealable under these Rules. It may appoint a referee, with subpoena power and power to administer oaths, to take testimony, hear, and decide all removal and disciplinary cases and other actions appealable under these Rules. The decision of a referee is subject to review by the Board on any question of law or fact upon the filing of an application for review with the Board within thirty (30) calendar days of the date on which the subject Referee's decision or order is placed in the mailed or sent electronically to the interested parties (whichever occurs first).

- (1) Applications for review must be submitted with a legal brief containing the following:
  - (a) The name and docket number of the appeal sought to be reviewed; and
  - (b) Specified factual findings and/or conclusions of law which are believed to be wrong. A general statement that the opinion is wrong or that the evidence does not support the findings will not be considered sufficient; and
  - (c) Specified pleadings and exhibits offered into evidence which are to be submitted to the Board with the application for review. A transcript of the proceedings before the referee may not be specified as a pleading or exhibit under this rule unless paid for by the appellant. If no pleadings or exhibits are specified, only the referee's decision, the request for appeal and the notice of disciplinary or other action will be submitted to the Board with the application for review; and
  - (d) A written argument; and
  - (e) A certificate that a copy of the application for review has been sent to the opposing party.

- (2) Any opposition to the original brief shall be filed in the Board's office within fifteen (15) calendar days from the submission of the application and original brief. Such opposition may contain argument and may identify pleadings and exhibits offered into evidence before the Referee that should be considered by the Board in support of the opposition. A transcript of the proceedings before the Referee may not be specified a pleading or exhibit under this rule unless paid for by the party requesting it. Such opposition shall contain a certificate that a copy was sent to the opposing party.
  - (3) The applicant may furnish a reply memorandum but only if it is received within two (2) calendar days from the submission of the opposition memorandum.
  - (4) If the applicant or opposition designates the transcript and the transcript is delayed, a request for extension of time may be filed with the Director for consideration by one member of the Board or the Referee, subject to review and ratification by a majority of the Board members at the next meeting. A delay may only be granted if the transcript was requested within fifteen (15) calendar days of the date on which the Referee's decision or order was placed in the mail or sent electronically to the interested parties (whichever occurs first). Any request for delay will require written proof of payment to the court reporter as to the date the initial request was made and must be submitted with the motion for extension time.
  - (5) If the last day falls on a weekend or legal holiday, then the delay shall end on the next working business day. If an application for review is not timely filed with the Board, the decision of the referee becomes the final decision of the Board as of the date the decision was rendered. If an application for review is timely filed with the Board and, after a review of the application by the Board, the application is denied, the decision of the referee becomes the final decision of the Board as of the date the application is denied.
  - (6) Any referee appointed by the Board shall have been admitted to the practice of law for at least eight (8) years prior to his appointment. Decisions of the Board shall be subject to review on any question of law or fact upon appeal to the Louisiana Fifth Circuit Court of Appeal.
- 8.2 An application for appeal from a final decision of the Board shall be effectuated in accord with the Uniform Rules - Courts of Appeal, Rule 3, 3-1, The Special Appeals, Administrative Cases, said rules hereby being adopted and, by reference, made part hereof. The application for appeal shall be in writing and must be filed with and received by the Personnel Department during established Department working hours and within thirty (30) calendar days of the effective date of the decision from which the appeal is taken. Saturdays, Sundays, holidays, and other non-working days shall not serve to extend this thirty-day limitation. If the last day falls on a weekend or legal holiday, then the delay shall end on the next working business day.

### **RULE III**

#### **CLASSIFICATION PLAN**

##### **Section 1. CREATING CLASSES AND ALLOCATING POSITIONS**

- 1.3 If an employee believes his position has been improperly allocated, he may protest the allocation and request a position allocation study. A person designated by the Director may hold special hearings to determine the facts of each case. The designee may require the employee or any other party to produce and present pertinent forms or documents. The designee shall make his

decision on the basis of the written statements and forms presented by the employee and the facts brought out in the hearing. The employee shall have the right to appeal to the Director if dissatisfied with the findings of the study within thirty (30) calendar days of the date notifying the employee of the findings. The Director or Personnel Board Special Assistant shall review the findings of the study and shall make his decision on the basis of written statements and forms presented by the employee and the facts brought out in the review. The employee shall have the right to appeal to the Board within fifteen (15) calendar days of the date notifying the employee of the Director's findings if dissatisfied with the action of the Director. Saturdays, Sundays, holidays, and other non-working days shall not serve to extend these thirty (30) calendar day and fifteen (15) calendar day limitations. If the last day falls on a legal holiday, the period runs until the end of the next day which is not a legal holiday. Following the expiration of the thirty (30) and fifteen (15) calendar day periods which are provided above for the filing and receipt of protest of findings, no protest of findings shall be amended or supplemented in such a way as to change fundamental issues involved in the original protest of findings.

## **RULE IV**

### **PAY PLAN**

#### **Section 2. PAY INCREASES**

- 2.1 Generally, conditioned upon the availability of funds, an employee entering into the classified Parish service shall be hired at the minimum rate prescribed for the class of work in which employed; exceptions being permitted only as elsewhere specifically provided in this Rule or in the Special Pay Provisions of the Pay Plan.

An employee entering into or promoted within the classified Parish service at the prescribed minimum rate or at any authorized starting rate within the grade shall, subject to the availability of funds, be granted a full five (5) percent pay increase (not subject to maximum rate limitation) on the first day of the pay period immediately following satisfactory completion of the working test period in his current class of work. Thereafter, annually, if the initial pay raise was effective between the first and fifteenth day of the month (inclusive), the employee's pay raise eligibility date shall be the first day of that month; and, if the initial pay raise was effective between the sixteenth and last day of the month (inclusive), the employee's eligibility shall be the sixteenth of that month. In the case of any employee entering the service at a rate above the prescribed minimum, the initial pay raise may be deferred to a date twelve (12) months after employment; and in the case of any employee entering the service within six (6) months of (before or after) the implementation of a new higher pay grade for his class or position, the initial pay raise may be deferred to a date twelve (12) months after implementation of the new minimum rate.

A provisional employee may be granted a first pay increase not sooner than the first day of the pay period immediately following completion of six consecutive months of satisfactory service; and, thereafter, may be considered for subsequent pay raises on the same basis as are regular employees. If such employee is subsequently retained by regular appointment, with recognition of provisional service in accord with Rule VIII, Section 3, any and all pay raises granted during the provisional tenure shall be considered as having satisfied the regular requirements for mandatory pay increase after completion of probation, and for establishment of the permanent pay raise eligibility date.

Each employee shall be considered for an annual pay increase on his/her eligibility date. Subject to fund-wide or district-wide budgetary restrictions, an increase shall be granted, based on the employee's annual performance evaluation, as follows:

ANNUAL PAY INCREASE		
ANNUAL PERFORMANCE EVALUATION		% Increase in Annual Salary
Overall Performance Evaluation	Overall Evaluation Criteria	
Below Expectations	1 or more BE ratings in any Universal or Supplemental Factor.	0
Needs Improvement	No BE ratings in any factor. NI rating in 4 or more Universal Performance Factors excluding UPF4, Safety and UPF6, Attendance or an NI rating in UPF4 or UPF6, or an Overall Score less than 1.57 when rounded to the nearest two (2) decimal places.	0
Meets Expectations	No BE ratings in any factor. ME or EE ratings in 4 or more Universal Factors including UPF4, Safety and UPF6, Attendance, and an Overall Score between 1.57 and 2.42 when rounded to the nearest two (2) decimal places.	5
Exceeds Expectations	No BE or NI ratings in any factor. If Supplemental Factor 4 is applicable, EE rating in SF4, and 3 or more EE ratings in Universal Factors or if Supplemental Factors other than SF4 are used, Overall Score between 2.43 and 2.66 when rounded to the nearest two (2) decimal places	6 ½
Substantially Exceeds Expectations	No BE or NI ratings in any factor. If Supplemental Factor 4 is applicable, EE rating in SF4, and 5 or more EE ratings in Universal Factors or if Supplemental Factors other than SF4 are used, Overall Score of 2.66 or higher when rounded to the nearest two (2) decimal places.	8000000
Meets Expectations or higher reevaluation after annual performance evaluation of Needs Improvement	See Above	2

This pay increase shall be effective on the first day of the pay period immediately following the eligibility date or in the case of a pay increase upon reevaluation, on the first day of the pay period immediately following the effective date of the reevaluation.

The Pay Raise Eligibility Date shall not be changed by virtue of promotion, leave of absence, reinstatement or reemployment with permanent status, adoption of new pay grades, the granting of "additional" pay raises under Section 1.6 and 2.4 of this Rule, and/or other similar considerations.

Current permanent employees designated as cyclic workers under Rule XIII, Section 4.2(c) whose eligibility dates fall within an established period of furlough may be evaluated and granted any required pay increase effective the last full pay period prior to or the first full pay period subsequent to the period of furlough.

- 2.2 When an employee is not granted a pay increase as provided herein, he shall be furnished written reason or reasons for the failure to grant the increase and a copy of this statement shall be forwarded to the Personnel Department for inclusion in the employee's record. If an employee is not furnished written reason or reasons as required hereunder, or if the employee makes a specific allegation that he was denied a pay raise required under sub-section 2.1 above or that he was denied a pay raise due to racial, religious, political or other discrimination unrelated to merit factors of employment, s/he may file a written appeal to the Personnel Board in accordance with the conditions outlined in Rule II, Section 4 of these Rules. An employee who fails to appeal timely under this Rule shall have no further recourse.

## **RULE VI**

### **EXAMINATIONS**

#### **Section 10. DRUG AND ALCOHOL TESTING PROGRAM**

In order to ensure a drug and alcohol free work place, the Parish shall require urine specimens and may require a breath sample from all prospective employees, in order to test for the presence of Prohibited Substances (defined below). The Parish shall also require urine specimens and/or breath samples from current employees under those conditions as set forth in this Section in order to test for the presence of Prohibited Substances.

The Department of Human Resource Management shall be responsible for the management of the Parish Drug and Alcohol Testing Program, and shall be responsible for Parish compliance with this Section as well as applicable state and federal laws regarding drug and alcohol testing programs.

The Department of Human Resource Management shall have the responsibility for adopting SAMHSA Guidelines (defined below) and Federal DOT Regulations (defined below), and any subsequent revisions/replacements of SAMHSA Guidelines and Federal DOT Regulations, for the purpose of management of the Parish Drug and Alcohol Testing Program.

#### **10.1 Definitions**

As used in this Section, the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

- (1) "Accident" means an unforeseen and unplanned event, incident or circumstance resulting in bodily injury that requires the attention of a physician, or that results in significant damage to property.

- (2) “Adulterated Specimen” means a urine Specimen containing a substance that is not a normal constituent or containing any endogenous substance at a concentration that is not a normal physiological concentration.
- (3) “Alcohol” refers to the intoxicating drug in fermented or distilled liquors, beverages, medicines, or any other substances containing alcohol.
- (4) “Aliquot” means a portion of a specimen used for testing.
- (5) “CAP-FUDT Certified Laboratory” means a laboratory certified for forensic urine drug testing by the College of American Pathologists.
- (6) “Chain of Custody” means procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that a chain of custody form be used from the time of collection to receipt in the laboratory, and that upon receipt by the laboratory, a laboratory chain of custody form account for the sample or sample aliquots within the laboratory. Chain of custody forms shall be developed in accordance with SAMHSA Guidelines regarding security and chain of custody.
- (7) “Collection Site” means a place designated by the Parish where individuals present themselves for the purpose of providing a Specimen or breath Sample to be analyzed for the presence of Prohibited Substances.
- (8) “Collection Site Person” means a person who instructs and assists individuals at a Collection Site and who receives and makes a preliminary observation of the urine Specimen or breath Sample provided by those individuals. A Collection Site Person shall have successfully completed training to carry out this function.
- (9) “Conditional Employment Agreement” means a written binding agreement entered into between the Parish and an employee as a condition of continued employment with Jefferson Parish under one (1) or more of the following circumstances:
  - (a) prior to re-employment with the Parish following a two (2) year absence for violations of this Section, the Jefferson Parish Substance Use Policy, or Federal DOT Regulations; the applicant must be evaluated by a Substance Use Professional (SAP) designated by Jefferson Parish to determine eligibility for employment. The cost of this evaluation is the responsibility of the applicant.
    - i) if re-employment occurs longer than five (5) years after the dismissal or resignation, the Department of Human Resource Management will determine whether a Conditional Employment Agreement is necessary based on the evaluation report of the Substance Use Professional.
  - (b) Self-referral to a substance abuse program or self-identification of a substance abuse problem by an employee who has never tested positive for Prohibited Substances while employed with the Parish but acknowledges a drug/alcohol problem;
  - (c) an employee’s return to temporary duty pending the legal resolution or outcome of an arrest for the violation of any criminal drug or alcohol laws that occurs

outside of the scope of the employee's Parish employment or workplace.

- (10) "Confirmatory Test" means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy.
- (11) "Controlled Substance" means:
- (a) Those substances whose production, dissemination or use is controlled by regulation or statute listed below, and as these provisions may be amended from time to time:
    - (i) Any chemical or its immediate precursor classified in Schedules I through V under the Federal Controlled Substances Act, 21 U.S.C. 811 to 812;
    - (ii) Any controlled substance as defined in the Federal Drug Abuse Prevention and Control Law or the Federal Drug Enforcement Administration's Schedule of Controlled Substances;
    - (iii) Any controlled substance analogue as defined in the Federal Drug Abuse Prevention and Control Law or the Federal Drug Enforcement Administration's Schedule of Controlled Substances;
    - (iv) Any controlled dangerous substance as defined in the Louisiana Uniform Controlled Dangerous Substances Law; and
  - (b) Narcotics, depressants, stimulants, hallucinogens, and cannabis; this list is a non-exclusive illustrative example of the types of substances classified as controlled substances. Also, legal drugs which are, distributed or intended to be used illegally may be considered controlled substances.
- (12) "Drug" means a substance:
- (a) Defined as a controlled substance;
  - (b) Recognized as a pharmaceutical in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official Formulary, or in any supplement to any of them;
  - (c) Intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;
  - (d) Other than food or beverage, intended to affect the structure or any function of the body of humans or animals; or
  - (e) Intended for use as a component of anything listed above in this definition.

This definition includes Controlled Substances, legally prescribed substances, and over the counter substances.

- (13) “Drug-related Paraphernalia” refers to any unauthorized material, equipment, or item used or designed for the use in testing, packaging, storing, injecting, ingesting, smoking, inhaling, or otherwise introducing a drug into the human body.
- (14) “Employee” means any person employed by the Parish under the provisions of Section 4.03 of the Parish Charter and these Personnel Rules adopted there under.
- (15) “Federal DOT Regulations” means the Department of Transportation Procedures for Transportation Workplace Drug and Alcohol Testing Programs as published in 49 C.F.R. part 40 and any handbooks, materials or publications promulgated and distributed by DOT for Workplace Drug and Alcohol Testing Programs.
- (16) “Initial Test” or “Screening Test” means an immunoassay screen or equivalent to eliminate negative urine specimens from further consideration.
- (17) “Medical Review Officer” means a licensed physician responsible for receiving laboratory results generated by the Parish Drug and Alcohol Testing Program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's positive test result together with his medical history and any other relevant biomedical information.
- (18) “Medication” means any drug or pharmaceutical that the employee has legally obtained either over the counter, or by a valid prescription or order, from a practitioner, as provided in the Louisiana Uniform Controlled Dangerous Substances Law, and that is used or consumed by the person to whom it is legally prescribed in a manner consistent with such prescription or order or in accordance with the recommended dosage.
  - (a) “Approved Medication” means those drugs or pharmaceuticals identified by the Department of Human Resource Management and/or included in the Jefferson Parish Substance Use Policy as amended from time to time, that do not have the potential to adversely affect the safe and efficient performance of the employees’ duties while working or reporting to work.
  - (b) “Qualified Medication” means any drug or pharmaceutical:
    - (i) identified by the Department of Human Resource Management and/or included in the Jefferson Parish Substance Use Policy, which has the potential of affecting the employee’s ability to safely or efficiently perform his or her job duties; and
    - (ii) that requires medical authorization, before the employee can report to duty, in accordance with the procedures set forth in the Jefferson Parish Substance Use Policy and Subsection 10.4 of this Section.
- (19) “Monitor” means repeated drug and/or alcohol testing of an individual pursuant to a Conditional Employment Agreement.
- (20) “Parish Designated Physician” means a licensed physician (medical doctor or doctor of osteopathy) designated by the Parish to perform physical exams or medical evaluations of Parish employees to determine an employee’s ability to perform the duties of Parish employment, or otherwise has appropriate medical training to interpret and evaluate an

employee's ability to perform the duties of Parish employment and who has knowledge of substance abuse disorders and is capable of reviewing laboratory results generated by the Parish Drug and Alcohol Testing Program.

- (21) "Prohibited Substances" means:
- (a) alcohol;
  - (b) marijuana, cocaine, opioids, 6-acetylmorphone, amphetamines, methamphetamines, oxycodone, oxymorphone, hydrocodone, hydromorphone, MDMA, MDA, phencyclidine;
  - (c) any Drugs or pharmaceuticals which cannot be legally obtained;
  - (d) any Drugs or pharmaceuticals which have not been legally obtained;
  - (e) any Drug or pharmaceutical which is legally obtained but is used or consumed for a purpose or in a manner other than that for which it is prescribed or intended or is used or consumed by a person other than the person for whom it has been prescribed.
- (22) "Prospective Employee" means any person who has been certified for possible appointment or who is otherwise being considered for appointment to the Parish service, and who has been offered Parish employment contingent on passing the pre-employment physical examination including pre-employment drug test and, when appropriate, a pre-employment breath test.
- (23) "Reasonable Suspicion" means a well-founded belief based on specific or observable facts and logical inferences drawn from those facts, that an employee is under the influence of, or impaired to any degree by, drugs or alcohol.
- (24) "Safety or Security Sensitive Position" means a position of employment characterized by critical safety and/or security responsibilities and duties of such a nature that failure to properly perform those responsibilities and duties could compromise Parish, state or national security and/or endanger the health or safety of the employee, other employees or the public. When identifying Safety or Security Sensitive Positions, the Parish shall examine the nature of the equipment, the nature of the material and the work of the employee and consider the impact of these factors on the safety of employee, others and property; and, the security of the Parish, state and nation, the public, and confidential/security protected data and records.
- (25) "SAMHSA" means the Department of Health and Human Services, Substance Abuse and Mental Health Services Administration.
- (26) "SAMHSA Certified Laboratory" means a laboratory certified for forensic urine drug testing by SAMHSA.
- (27) "SAMHSA Guidelines" means the SAMHSA Mandatory Guidelines for Federal Workplace Drug Testing Programs as published in the Federal Register Volume 59, No. 110 on June 9, 1994 and any revised guidelines issued by the Department of Health and Human Services.

- (28) Self-referral” means an employee, who has never tested positive for a prohibited substance while employed by the Parish but acknowledges a drug/alcohol problem, identifies himself/herself voluntarily as requiring assistance in dealing with alcohol or drug dependency.
- (29) “Specimen” or “Sample” means urine specimen for Drug testing and breath specimen for alcohol testing. Blood, saliva or hair may be used as a Specimen for Drug and/or alcohol testing where appropriate and authorized by State law.

## 10.2 Applicability

- (A) This Section shall apply to all testing of prospective and current employees in the Jefferson Parish Classified Service for the presence of Prohibited Substances under those conditions and circumstances as set forth in this Section.
- (B) Nothing in this Section shall preclude testing to detect an employee’s use or consumption of, or working while under the influence of other Drugs, Controlled Substances and alcohol, when such testing is performed under conditions outlined in sub-section 10.3 (B) and (C). A test result indicating an alcohol level of .04 grams or more per 100 milliliters of blood, or per 210 liters of breath shall result in dismissal under Rule X of the Personnel Rules. The Appointing Authority involved shall dismiss the employee, provided that such dismissal shall be taken in accordance with Rule X of the Jefferson Parish Personnel Rules, upon notification of any of the following:
  - (i) a confirmed positive result from a urinalysis or breath test,
  - (ii) the refusal to participate in the Drug and Alcohol Testing Program,
  - (iii) the submission of an Adulterated Specimen,
  - (iv) failure to provide an adequate Specimen in the allotted time (unsupported by a valid medical explanation and in accordance with SAMHSA Guidelines), or
  - (v) a confirmed positive result in violation of a Conditional Employment Agreement.
- (C) Alcohol and Drug testing and related requirements mandated by any preemptive Federal or State law, including but not limited to Federal DOT Regulations as amended, shall be performed in accordance with such laws, in lieu of testing and related procedures specifically required under this section, provided that provisions of this section that are not inconsistent with or preempted by such laws and regulations shall apply.
- (D) Any provision of this Section held to be prohibited by Federal Law or of the laws of the state of Louisiana shall be ineffective to the extent of such prohibition without invalidating the remaining provisions of this Section.
- (E) Any of the following shall result in dismissal under Rule X of the Jefferson Parish Personnel Rules:
  - (i) a confirmed positive result from a urinalysis for Drugs;

- (ii) a post-accident, random, or reasonable suspicion alcohol test result indicating an alcohol level of .04 grams or more per 100 milliliters of blood, or per 210 liters of breath;
- (iii) the refusal to participate in the Drug and Alcohol Testing Program;
- (iv) submission of an Adulterated Specimen;
- (v) failure to provide an adequate Specimen in the allotted time (unsupported by a valid medical explanation, and in accordance with SAMHSA Guidelines);
- (vi) violation of a Conditional Employment Agreement; or
- (vii) violation of applicable Federal DOT Regulations under 10.2, (C) of this Section.

The Appointing Authority, upon notification of any of (i) through (vii) above shall dismiss the employee, provided that such dismissal shall be taken in accordance with Rule X of the Jefferson Parish Personnel Rules.

### 10.3 Drug and Alcohol Testing

- (A) Each offer of Parish employment shall be conditioned upon the passing of a Drug test and if required, an alcohol test, which shall be administered as part of the pre-employment physical examination, and which shall test for the presence of Prohibited Substances.

The Parish shall require a urine Specimen and may require a breath Sample, from all prospective employees, and shall test all Specimens/Samples for the presence of Prohibited Substances.

The Parish shall not hire any applicant who fails a pre-employment test by testing positive for the presence of Prohibited Substances.

- (B) As a condition of continued employment, the Parish shall require a urine Specimen and/or a breath Sample from an employee and shall test for the presence of Prohibited Substances:
  1. if during the course and scope of his employment the employee is involved in an Accident;
  2. under other circumstances which result in reasonable suspicion that Prohibited Substances are being used; or,
  3. as part of a monitoring program to assure compliance with the terms of a Conditional Employment Agreement.
- (C) The Parish shall implement a program of random drug and alcohol testing of employees who occupy Safety or Security Sensitive Positions.
- (D) Any of the following shall result in dismissal under Rule X of the Jefferson Parish Personnel Rules:

- (i) a confirmed positive result from a urinalysis for Drugs;
- (ii) a post-accident, random or reasonable suspicion alcohol test result indicating an alcohol level of .04 grams or more per 100 milliliters of blood or per 210 liters of breath;
- (iii) the refusal to participate in the Drug and Alcohol Testing Program;
- (iv) submission of an Adulterated Specimen;
- (v) failure to provide an adequate Specimen in the allotted time (unsupported by a valid medical explanation and in accordance with SAMHSA Guidelines);
- (vi) violation of a Conditional Employment Agreement; or
- (vii) violation of applicable Federal DOT Regulations under 10.2 (C) of this Section.

The Appointing Authority involved, upon notification of any of (i) through (vii) shall dismiss the employee, provided that such dismissal shall be taken in accordance with Rule X of the Jefferson Parish Personnel Rules.

#### 10.4 Medications

(A) Prescription Medications:

An employee in a Safety or Security Sensitive Position is not permitted to report to duty:

- (i) with any detectable quantity of a Prohibited Substance in the employee's system;  
or
- (ii) while taking any prescription medication that may adversely affect the employee's safe, productive or efficient work performance unless and until all of the following conditions have been met:
  1. the employee's physician must complete a Parish form certifying that the employee can satisfactorily and safely perform his job duties while taking a prescription medication ("Employee Physician Certification"). The employee shall provide the completed Employee Physician Certification to the Parish Designated Physician;
  2. the Parish Designated Physician shall review the Employee Physician Certification and shall concur by written authorization ("Prescription Medication Authorization") that the employee may report to duty while taking a prescription medication. The Parish Designated Physician shall provide the Prescription Medication Authorization to the Department of Human Resources and the Appointing Authority before the employee is allowed to report to duty;
  3. When an employee is authorized to report to duty and to work while taking a prescription medication, the employee shall be authorized to consume such medication only as prescribed on the prescription label instructions;

The Parish may require any employee to provide the original prescription

container with the employee's name, physician's name and prescription number permanently affixed on the container label or any other evidence of the prescription medication as required.

(B) Over the Counter Medications:

An employee in a Safety or Security Sensitive Position is not permitted to report to duty while taking any over the counter medication that may adversely affect the employee's safe, productive or efficient work performance, unless and until all of the following conditions have been met:

1. the Parish Designated Physician shall certify that the employee can safely and satisfactorily perform his job duties while taking an over the counter medication ("Parish Physician Certification");
2. the Parish Designated Physician, upon certification that the employee may report to duty while taking an over the counter medication, shall provide written authorization ("OTC Medication Authorization") to the Department of Human Resources and the Appointing Authority before the employee is allowed to report to duty;
3. When an employee is authorized to report to duty and to work while taking an over the counter medication, the employee is authorized to consume such medication only as directed on the label or medication instructions or as directed by the employee's physician (the Parish may require written evidence of such directions from the employee's physician).

(C) An employee in a Safety or Security Sensitive Position is prohibited from reporting to duty while under the influence of a prescription or over the counter medication without complying with the procedural requirements set forth in 10.4 (A) (1-3) and/or 10.4 (B) (1-3), of this Section notwithstanding that the medication is being taken or used in a manner consistent with a valid prescription or in accordance with the recommended dosage.

(D) If an employee in a Safety or Security Sensitive Position reports to duty with any detectable quantity of a Prohibited Substance in the employee's system, or under the influence of any prescription medication or over the counter medication that may adversely affect the employee's safe, productive or efficient work performance, and fails to obtain the proper medical authorization from the Parish's designated physician, as specified in 10.4 of this Section, he shall be subject to disciplinary action, up to and including termination.

Any employee who is disciplined under Subsection 10.4 of this Section may file a written appeal to the Personnel Board in accordance with the conditions outlined in Rule II, Section 4 and Section 6 of these Rules.

10.5 Use of certified laboratories for Drug testing of Specimens collected.

All Drug testing shall be performed in SAMHSA-certified or CAP-FUDDT-certified laboratories.

Drug testing as provided in this Section shall be performed in compliance with the SAMHSA Guidelines, where applicable. The cutoff limits for Drug testing shall be in accordance with

SAMHSA Guidelines, where applicable.

The cut off limits for testing of Drugs not tested for under SAMHSA shall be in accordance with those generally accepted and recognized standards as set forth by SAMHSA –certified or CAP-FUDDT-certified laboratories.

#### 10.6 Collection of urine Specimens

All urine Specimens for Drug testing shall be collected, stored, and transported in compliance with the SAMHSA Guidelines, and shall be collected with regard to privacy of the individual.

Direct observation of the individual during collection of the urine Specimen may be allowed under any of the following conditions:

- (1) There is reason to believe that the individual may alter or substitute the Specimen to be provided;
- (2) The individual has provided a urine Specimen that falls outside the acceptable temperature range as listed in the SAMHSA Guidelines;
- (3) The last urine Specimen provided by the individual was verified by the Medical Review Officer as being adulterated based upon the determinations of the laboratory;
- (4) The Collection Site Person observes conduct indicating an attempt to substitute or adulterate the Specimen;
- (5) The individual has previously been determined to have a urine Specimen positive for one or more Prohibited Substances the testing for which is covered by this Section, and the individual is being tested for the purpose of follow-up testing upon or after return to service; or
- (6) The testing is post-accident or reasonable suspicion/cause testing.

A designated employee of the Department of Human Resource Management shall review and concur in advance with any decision by a Collection Site Person to obtain a Specimen under direct observation. All direct observation shall be conducted by a same gender Collection Site Person.

Every Collection Site Person shall be responsible for sanitary collection of urine Specimens while maintaining privacy, security, and the Chain of Custody. Every Collection Site Person shall be responsible for the proper disposal of biohazardous waste and dispose of all biohazardous waste in accordance with proper safety procedures.

All Specimens and/or Samples collected for Drug testing shall be packaged, sealed, labeled, and transported with the proper Chain of Custody procedures for analysis to a SAMHSA-certified or CAP-FUDDT-certified laboratory in strict compliance with SAMHSA Guidelines.

#### 10.7 Initial Test and Confirmatory Test required

Drug testing shall, at least, consist of an Initial Test as provided in the SAMHSA guidelines. All specimens identified as positive on the initial test shall be confirmed using a Confirmatory Test

as provided in the SAMHSA Guidelines.

10.8 Review of Drug testing results; Medical Review Officer

The Parish shall employ a Medical Review Officer whose qualifications and responsibilities shall be as provided in the SAMHSA Guidelines.

All results of Drug testing shall be reported directly from the laboratory to the Parish Medical Review Officer as provided in this Section.

The Parish Medical Review Officer shall review all confirmed positive test results and shall report such results to the Department of Human Resource Management in compliance with the SAMHSA Guidelines. Negative results need not be reviewed by the Parish Medical Review Officer, but shall be reported to the Department of Human Resource Management.

Adulterated Specimens shall be reported as such to the Parish Medical Review Officer with clarification as to the specific nature of the adulteration. The Parish Medical Review Officer shall contact the individual who submitted the Specimen as outlined in the SAMHSA Guidelines before making a final decision to verify a positive test result or report an adulteration.

10.9 Refusal or failure to participate; adulteration of Specimen

Any prospective or current employee who refuses or fails to participate in the pre-employment testing procedure for Prohibited Substances under sub-section 10.2 (C), or 10.3 (A) at the prescribed time and place, shall be considered to have failed the test.

Any prospective or current employee found to have submitted an Adulterated Specimen as verified by the Parish Medical Review Officer shall be considered to have failed the test.

Any employee who refuses to participate in the post-employment alcohol or Drug testing procedures provided for under sub-section 10.2 (C), or 10.3 (B) - (C) at the prescribed time and place, shall be considered to have failed the test.

Any employee, who fails to provide an adequate Specimen in the allotted time (unsupported by a valid medical explanation, and in accordance with SAMHSA Guidelines), shall be considered to have failed the test.

10.10 Reporting results to Personnel Director; removal of names of eligible candidates from certifications and eligible lists; disqualification for future employment eligibility.

(A) The Director shall be notified of any of the following results or circumstances applicable to any prospective or current employee:

- (i) a confirmed positive result from a urinalysis for Drugs;
- (ii) a post-accident, random or reasonable suspicion alcohol test indicating an alcohol level of .04 grams or more per 100 milliliters of blood, or per 210 liters of breath;
- (iii) a refusal to participate in the Drug and Alcohol Testing Program;
- (iv) submission of an Adulterated Specimen;

- (v) failure to provide an adequate specimen in the allotted time (unsupported by valid medical explanation and in accordance with SAMHSA Guidelines);
  - (vi) a violation of a Conditional Employment Agreement; or
  - (vii) violation of applicable Federal DOT Regulations under 10.2 (C) of this Section. Test results and submissions of Adulterated Specimens shall be reported via a copy of the Medical Review Officer's report.
- (B) The Director shall cause the name of the eligible candidate to be removed from all current certifications and from all employment lists upon receipt of any of the following:
- (i) a confirmed positive result from a urinalysis for Drugs;
  - (ii) a post-accident, random, or reasonable suspicion alcohol test result indicating an alcohol level of .04 grams or more per 100 milliliters of blood or per 210 liters of breath;
  - (iii) a refusal to participate in the Drug and Alcohol Testing Program;
  - (iv) submission of an Adulterated Specimen;
  - (v) failure to provide an adequate Specimen in the allotted time (unsupported by valid medical explanation, and in accordance with SAMHSA Guidelines);
  - (vi) violation of a Conditional Employment Agreement; or
  - (vii) violation of applicable Federal DOT Regulations under 10.2 (C) of this Section.

An eligible candidate who refuses or fails to participate in the Drug and Alcohol testing procedures provided for under sub-section 10.3 (A)-(C), or subsection 10.2 (C), at the prescribed time and place, shall be removed from all current certifications and from all employment lists, if satisfactory evidence of inability to participate is not provided as justification for such refusal or failure.

- (C) Subject to the provisions of the Americans With Disabilities Act, persons dismissed or removed from employment list(s) under this Section shall be ineligible for Parish employment for at least two (2) years. The Director shall reject any application for employment submitted during the two (2) year period following dismissal or removal from the employment list(s).

#### 10.11 Resignations

- (A) When an employee becomes subject to dismissal as provided for under sub-section 10.3 (D) or 10.2 (E), and before such provisions are effected, the employee resigns his position, such resignation shall be treated as a dismissal for purposes of sub-section 10.9.
- (B) The resignation shall be immediately reported to the Director on the form prescribed for such purpose, which form shall be accompanied or supplemented by an explanation of the specific circumstances surrounding the resignation, and notification of confirmed positive test result, refusal to participate in a scheduled Drug or alcohol test, or

submission of Adulterated Specimens by the employee. Test results and submissions of Adulterated Specimens shall be reported via a copy of the Medical Review Officer's or Breath Alcohol Technician's report.

#### 10.12 Rights of the prospective employee and employee

- (A) Prospective employees and current employees who are adversely affected under this Section shall have the right of appeal to the Personnel Board as provided elsewhere in these Rules.
- (B) Any prospective employee or current employee, confirmed positive, upon his written request, shall have the right of access within seven (7) working days to records relating to his Drug and/or alcohol tests and any records relating to the results of any relevant certification, review, or suspension/revocation-of-certification proceedings.
- (C) The Parish may, but shall not be required to, afford an employee the opportunity to undergo rehabilitation without termination of employment when the employee voluntarily seeks treatment/rehabilitation assistance provided that such assistance is independently sought prior to the employee becoming subject to testing under sub-section 10.3 (B) and (C) (i.e. post-accident, reasonable suspicion, random, or testing to monitor compliance with a Conditional Employment Agreement)."

#### 10.13 Responsibilities of the Parish

- (A) The Department of Human Resource Management shall develop and promulgate to all Parish Appointing Authorities and employees, a written Substance Use Policy which shall comply with the provisions of this Section. No oral modification of the terms of the written policy shall be valid. Upon approval by Parish Council resolution, the Substance Use Policy shall have the full effect of this Ordinance; however this Ordinance shall not be modified without prior Personnel Board approval as required under Section 4.03. Personnel Administration, of the Jefferson Parish Home Rule Charter.
- (B) As provided by La. R.S. 49:1001 *et seq.*, all information, interviews, reports, statements, memoranda, or test results received by the Parish through its Drug and Alcohol Testing Program are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in an administrative or disciplinary proceeding or hearing, or civil litigation where Drug use by the tested individual is relevant.
- (C) Parish Appointing Authorities and other employees involved in the administration of the Parish Drug and Alcohol Testing Program shall maintain and use Drug and alcohol testing results with the highest regard to the individual's privacy.
- (D) An individual's Drug and alcohol test results received by the Director shall be treated as confidential records under Personnel Rule XI, Section 5.1, (b) and (c), and shall be released only to the individual or his legally authorized representative, except as provided in sub-section 10.13(B), above.

#### 10.14 Defense of Appeals

The Department of Human Resource Management shall be a party to all appeals arising from the

Parish Drug and Alcohol Testing Program; and, shall be responsible for defense of all appeals arising from the administration of the Parish Drug and Alcohol Testing Program, and the results thereof, as opposed to their application.

## **RULE IX**

### **HOURS OF WORK, LEAVES OF ABSENCE, ABSENCE WITHOUT LEAVE, AND RESIGNATIONS**

#### **Section 2. ANNUAL LEAVE**

- 2.4 No annual leave may be used until an employee has an accumulation of six (6) working days of such credits. This applies only to the initial use of annual leave and neither means nor implies that a balance of six (6) days be maintained. Subject to this requirement, each employee shall be entitled each year to use at least the amount of leave accumulated during that year and may, with the approval of his department head, use any amount not in excess of the total accumulated and unused. Such leave may be used only at the time or times approved by the appropriate department or agency head, based upon the departmental work load and the demand for the employee's services. An employee may be required to use annual leave for vacation purposes, provided that such use is in conformity with a departmental policy set forth and impartially administered by the appointing authority. Any employee who feels that s/he has been treated unreasonably in regard to the use of annual leave may file a written appeal to the Personnel Board in accordance with the conditions outlined in Rule II, Section 4 of these Rules.

#### **Section 13. ABSENCE WITHOUT LEAVE AND PRESUMED RESIGNATION**

- 13.4 Absence without leave for a period of five (5) consecutive working days shall constitute a presumed resignation. The appointing authority involved shall, subject to the provisions of section 13.2, above, effect the presumed resignation on forms prescribed by the Personnel Department. In every case of presumed resignation of an employee in the classified service, the appointing authority responsible for the action shall furnish to the employee involved a written notice thereof. The written notice shall also inform the employee of his right of appeal to the Personnel Board as provided in 13.5, below.
- 13.5 Denial of pay for time absent without leave and presumed resignation shall be appealable to the Personnel Board only on the basis of a specific allegation that the absence was, or should have been, approved or authorized under one or more of the provisions of Section 2 thru 12 of this Rule IX. Such an appeal must be filed in writing and within thirty (30) calendar days of the pay day on which the pay was denied. The Appellant shall bear the burden of proof of such allegations.

#### **Section 14. RETURN FROM LEAVE OF ABSENCE/INVOLUNTARY LEAVE OF ABSENCE**

- 14.1 An employee will not be allowed to resume his regular duties at work following a return from a leave of absence of five (5) or more consecutive working days due to a medical disability, until such time as the employee furnishes to his Appointing Authority a statement by a licensed physician certifying that the employee is released to return to work, and is not affected by a medical condition which interferes with the employee's ability to perform the essential functions of his position satisfactorily and/or without endangering himself, other employees and/or the general public, with or without reasonable accommodation that does not present an undue hardship.
- 14.2 Whenever an Appointing Authority concludes that an employee is unable to perform the essential

functions of his position satisfactorily and/or without endangering himself, other employees and/or the general public, with or without reasonable accommodation that does not present an undue hardship, and the Appointing Authority believes that this inability to perform may be the result of a medical condition, physical or mental, the Appointing Authority may require the employee to undergo examination by a Parish physician, at Parish expense, certifying that the employee is not affected by a medical condition which interferes with the employee's ability to perform the essential functions of his position satisfactorily and/or without endangering himself, other employees and/or the general public, with or without reasonable accommodation that does not present an undue hardship.

In addition to undergoing examination by a Parish physician, the employee may elect, at their own expense, to furnish a statement by a licensed physician certifying that the employee is not affected by a medical condition which interferes with the employee's ability to perform the essential functions of his position satisfactorily and/or without endangering himself, other employees and/or the general public, with or without reasonable accommodation that does not present an undue hardship.

If there is a conflict between the first and second medical opinions, the Parish may, at Parish expense, require an employee to obtain a third opinion from a licensed physician jointly approved by the Parish and the employee. The third opinion shall be binding on both the Parish and the employee.

- 14.3 The Appointing Authority may require an employee to undergo examination by a Parish physician, at Parish expense, for the purpose of obtaining confirmation of the employee's ability to return to or continue in his position.
- 14.4 Pending the receipt of the Parish physician's certification, the Appointing Authority may place the employee on a leave of absence charged to the employee's accumulated Sick Leave, accumulated Annual Leave or Leave Without Pay, subject to the conditions set forth in Section 5.1(A-D) of this Rule.
- 14.5 In any case where an employee refuses to undergo the examination by a Parish physician, the Appointing Authority may take action warranted by the circumstances in order to maintain standards of effective service in accordance with the provisions of Rule X.
- 14.6 In every case in which the employee is placed in a leave status, under the provisions of this Section, the Appointing Authority responsible for the action shall furnish to the employee involved a written statement of the action(s) taken and the reason(s) therefore. The written notice shall also notify the employee of his right of appeal to the Personnel Board within thirty (30) calendar days of the effective date of the action taken against him, of the address of the Department of Personnel, and of the fact that forms to assist in the filing of an appeal may be obtained from the Department of Personnel. In addition, the Appointing Authority shall forward to the Director of Personnel a copy of the notification sent to the employee. In any case of alleged inability to furnish the required written notice to an employee, the Personnel Board may require evidence, and shall be the sole judge of the sufficiency and timeliness of the effort.
- 14.7 Nothing in this Section shall diminish the rights and responsibilities of the Parish or of its employees as provided under Rule VI, Section 10 of these Rules.

## RULE X

### DISCIPLINARY ACTIONS

#### Section 1. MAINTAINING STANDARDS OF SERVICE

- 1.1 When a regular or working test period employee in the classified service is unable or unwilling to perform the duties of his position in a satisfactory manner, or has committed any act to the prejudice of the service, or has neglected to perform any act it was his duty to perform, or otherwise has become subject to corrective action due to causes outlined in Rule VI, Section 3.5, the appointing authority shall take action warranted by the circumstances in order to maintain standards of effective service.

Action by the appointing authority may extend to:

- (1) Removal from the service;
  - (2) Retirement;
  - (3) Reduction in pay to a lower rate in the pay grade for the employee's class of positions;
  - (4) Demotion to any position of a lower class that the appointing authority and the Director deem the employee is competent to fill;
  - (5) Suspension without pay, not exceeding in the aggregate ninety (90) working days in any period of twelve (12) consecutive calendar months;
  - (6) Withholding of pay in any amount necessary to offset the cost to the Parish for damages which may have been caused by the employee or for the failure of the employee to return in good condition any Parish equipment or materials which may have been issued to him/her, provided that such withholding shall not reduce the hourly rate below the Federal Minimum Wage or, in an overtime week, shall not exceed a maximum of: employee's regular hourly pay rate-Federal Minimum Wage Rate x 40;
  - (7) Reprimand or other less drastic measures of discipline which the appointing authority considers proper.
- 1.2 In every case of dismissal, suspension, reduction in pay, fine, involuntary retirement, or demotion of an employee in the Classified service, the appointing authority responsible for the action shall furnish to the employee involved a written statement of the reasons therefore. The written notice shall also inform the employee of his right of appeal to the Personnel Board within thirty (30) calendar days of the date of the action taken against him, of the address of the Department of Personnel, and of the fact that forms to assist in the filing of an appeal may be obtained from the Department of Personnel. In addition, the appointing authority shall forward to the Director of Personnel a copy of the notification sent to the employee. In any case of alleged inability to furnish the required written notice to a disciplined employee, the Personnel Board may require evidence, and shall be the sole judge, of the sufficiency and timeliness of the effort. The Director may review any case of disciplinary action taken against a classified employee, and may, on his own initiative, immediately investigate the circumstances.

Section 3. SUSPENSION PENDING INVESTIGATION

- 3.1 An employee may be verbally suspended pending investigation when his appointing authority has reason to believe he has engaged in conduct which, if confirmed, would warrant disciplinary action and the employee's continued presence at work during an investigation of the suspected conduct would be contrary to the best interests of the Parish service. The employee shall be informed that he is being suspended pending investigation and the reasons therefore.
- 3.2 A suspension pending investigation shall be with pay and shall not exceed 15 calendar days without the prior approval of the Director. Upon an appointing authority's written request which explains the reasons therefore, the Director may allow the suspension to be extended for up to 15 additional calendar days.
- 3.3 Upon completion of the investigation, the employee and the Director shall be advised of the outcome thereof.
- 3.4 A suspension pending investigation is not a disciplinary action and is appealable only based upon an allegation of discrimination, pled with specificity as provided under Rule II Section 4.3 of these Rules.

**RULE XII**

**PERFORMANCE EVALUATIONS**

Section 1. ADMINISTRATION

- 1.6 Performance evaluations are management judgments by appropriate supervisory authority and subject to section 1.8, below, are not appealable to the Personnel Board until and unless they result in some form of appealable action specified elsewhere in these Rules.

Any employee who receives an overall evaluation of Needs Improvement or Below Expectations on an annual evaluation shall be reevaluated not sooner than two (2) months nor later than six (6) months after the effective date of that evaluation. Any employee who receives an overall evaluation of Needs Improvement on an annual evaluation and receives a reevaluation of Meets Expectations or higher, shall be granted a pay increase at that time as provided under Rule IV. Any employee who is reevaluated as required under this Rule and receives an overall evaluation of Needs Improvement shall not be eligible for an annual pay increase. It shall be the duty of the Appointing Authority to reassign, demote, or dismiss any employee who receives two successive overall evaluations of Below Expectations on an annual performance evaluation or a reevaluation required under this Rule.

- 1.8 In any case in which a performance evaluation is not made as provided herein above, the employee shall have the right to appeal this failure to evaluate to the Personnel Board. This appeal right shall continue until such time as the performance evaluation is made and applicable pay increase is granted if required, but in no case shall extend beyond thirty (30) calendar days from the date of the employee's signature of or refusal to sign an original or corrected evaluation or reevaluation, or sixty (60) calendar days from the employee's pay raise eligibility date, which ever occurs first.

An employee appealing under this section shall state the alleged procedural omission(s) by his supervisors with specificity.

In its decisions resulting from appeals hearings taken under this section, the Board may remand the matter to the Appointing Authority with instructions to perform the performance evaluation and grant a pay increase if required. Annual pay increases shall be retroactive to the pay period immediately following the employee's pay raise eligibility date or in the case of a reevaluation, the reevaluation date, or other date prescribed by the Board.

## **RULE XIII**

### **LAYOFFS**

#### **Section 4. FURLOUGH TO AVOID LAYOFF**

- 4.1 For purposes of this policy, furlough means a period of leave without pay required of employees by an appointing authority for fiscal or other valid reasons, in order to avoid a layoff.
- 4.2 When an appointing authority determines that it is necessary to furlough employees under his jurisdiction in order to avoid a layoff, he may do so, subject to the following provisions:
- (a) Except as provided under sub-section (c), below, furlough must receive approval of the Director, no later than seven (7) calendar days prior to the effective date, based on a written request and justification from the appointing authority. This justification shall include reasons for the furlough, the names and classifications of those employees to be excluded and reasons for their exclusion, the total hours or days of furlough for each employee, the proposed dates and periods of time involved, and the organizational unit(s) affected. In all cases of disapproval by the Director, his decision shall be subject to the Personnel Board's ratification, at its next regularly scheduled meeting.

Furlough under this sub-section (a) shall be reported to the Personnel Department on forms prescribed for this purpose prior to the effective date of the furlough.

Employees furloughed under this sub-section (a) in excess of one bi-weekly pay period or an equivalent number of hours in a period of twelve calendar months and furloughed employees who allege discrimination due to race, color, national origin, sex, religion, age, disability, politics, or other specified cause shall have the right to appeal to the Jefferson Parish Personnel Board within thirty (30) calendar days of the effective date of the furlough.

- (b) An employee shall not be furloughed for more than a total of three hundred twenty (320) work hours or the number of work hours equivalent to forty (40) work days, whichever is the lesser, in any twelve calendar month period, without prior approval of the Personnel Board. The number of work hours equivalent to forty (40) work days shall be computed using the following formula: position's base hours per bi-weekly pay period /10\*40 (or, position's base hours per bi-weekly pay period\*4).
- (c) Employees who as a condition of employment were appointed as cyclic workers, i.e., workers whose work schedules are governed by fluctuations in the business cycle of Parish programs or operations, may be furloughed by the appointing authority without prior approval of the Director when such furloughs are consistent with the conditions of employment approved by the Personnel Department at the time of appointment via forms prescribed for this purpose.

Upon adoption of this sub-section (c) by the Parish Council, an appointing authority may,

subject to approval by the Personnel Director, identify current employees within his department or an organizational unit thereof as cyclic workers for purposes of this sub-section where such designation shall apply to all current employees and all future appointments in a given job classification within the department or unit. Upon approval by the Personnel Department, each employee shall be notified in writing by his appointing authority of his designation as a cyclic worker and of the associated specific conditions of employment. Employees so designated shall have the right of appeal to the Jefferson Parish Personnel Board within thirty (30) calendar days of such designation or notice of same.

Employees furloughed under this sub-section (c) shall not have the right of appeal from furlough.

Furlough under this sub-section (c) shall be reported to the Personnel Department on forms prescribed for this purpose not later than seven (7) calendar days prior to the effective date of the furlough.

- (d) In every case of furlough, the appointing authority shall furnish to the employee involved a written statement of the reasons therefore. In the case of furloughs under sub-section (a), the written notice shall also inform the employee of his right of appeal to the Personnel Board within thirty (30) calendar days of the date of a furlough if it exceeds one bi-weekly pay period or an equivalent number of hours in a period of twelve calendar months or if the employee makes a specific allegation of discrimination due to race, color, national origin, sex, religion, age, disability, politics, or other specified cause, of the address of the Department of Personnel, and of the fact that forms to assist in the filing of an appeal may be obtained from the Department of Personnel. In addition, the appointing authority shall forward to the Director of Personnel a copy of the notification sent to the employee. In any case of alleged inability to furnish the required written notice to a furloughed employee, the Personnel Board may require evidence, and shall be the sole judge, of the sufficiency and timeliness of the effort.

4.3 As an alternative to furlough as provided above, an appointing authority may determine that it is necessary and appropriate to reduce the work hours of employees in order to avoid or reduce layoffs. In such cases, his request is subject to the following:

- (a) Reduction in working hours must receive approval of the Director, no later than seven (7) calendar days prior to the effective date, based on a written request and justification from the appointing authority. He shall include the reasons for the reduction, the names and jobs of any employees to be excluded and reasons for their exclusion, the number of work hours reduced for each employee, and the proposed effective dates and periods of time involved.
- (b) Such reductions shall not exceed one period of twelve (12) consecutive months.
- (c) The number of work hours reduced for an employee shall not exceed the equivalent of two days per bi-weekly pay period and, for employees who are members of the Parish and/or State retirement system, shall not reduce the work week below the minimum twenty-eight (28) hours required for system membership.
- (d) While on a reduced schedule under this section, employee leave accumulation and usage rates shall be adjusted accordingly; however, accumulated leave balances shall be adjusted as provided under Rule IX, Section 2.8 only in the event of a permanent

reduction in hours.

- (e) A reduction in hours request may be disapproved where the Payroll Officer determines that it cannot be implemented due to limitations of the automated payroll system.
- (f) Employees whose hours are reduced under this section in excess of the equivalent of ten (10) normal working days (position's base hours per week/5) in a period of twelve (12) calendar months or who allege discrimination due to race, color, national origin, sex, religion, age, disability, politics, or other specified cause shall have the right to appeal to the Jefferson Parish Personnel Board within thirty (30) calendar days of the effective date of the reduction. In every case of a reduction of hours under this section, the appointing authority shall furnish to the employee involved a written statement of the reasons therefore. The written notice shall also inform the employee of his right of appeal to the Personnel Board within thirty (30) calendar days of the date of the reduction if the reduction is in excess of the equivalent of ten (10) normal working days (position's base hours per week/5) in a period of twelve (12) calendar months or if the employee alleges that the reduction resulted from discrimination due to race, color, national origin, sex, religion, age, disability, politics, or other specified cause, of the address of the Department of Personnel, and of the fact that forms to assist in the filing of an appeal may be obtained from the Department of Personnel. In addition, the appointing authority shall forward to the Director of Personnel a copy of the notification sent to the employee.